REMARKS/ARGUMENTS

In the present application, claims 1-30 are pending. Claims 1, 15, 28 and 29 are independent claims from which claims 2-14, 16-27 and 30 respectively depend. Claims 1, 5, 8, 14-15, 23 and 27 have been rejected under 35 U.S.C. § 102(a) as being anticipated by Horstmann, U.S. Patent No. 6,363,356. Claim 28 has been rejected under 35 U.S.C. § 102(a) as being anticipated by Kikinis et al, U.S. Patent No. 5,835,732. Claims 2-4 and 29-30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Horstmann in view of Carolan, U.S. Patent No. 6,753,887. Claims 6-7 and 24-26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Horstmann in view of Bates et al, U.S. Patent No. 6,037,935. Claims 9-10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Horstmann in view of Philyaw, U.S. Patent No. 6,636,896. Claims 11-13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Horstmann in view of Chanos, U.S. Patent Application No. 2002/0120507A1. Claim 16 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Horstmann in view of Bukszar (U.S. Patent No. 6,133,916). Claims 17-22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Horstmann in view of Bukszar and further in view of Philyaw. Claims 1, 15, 28 and 29 have been amended. Support for the amendments can be found in the original application as filed on page 24 line 10 to page 25 line 25 and elsewhere in the specification.

Claim Rejections – 35 U.S.C. 102

Claims 1, 5, 8, 14-15, 23 and 27 have been rejected as being anticipated by Horstmann.

Applicants respectfully submit that Horstmann does not anticipate these claims because Horstmann does not disclose or suggest all the non-obvious features of amended independent claims 1 and 15 from which claims 5, 8, 14, 23, and 27 depend. Amended claim 1 recites:

> A method of branding a computer program comprising the acts of:
>
> receiving an indication that a first copy of a computer program has been downloaded to a first computing device and that said first copy is to be *branded with information associated with said first entity;*
>
> transmitting first data indicative of said first entity to said first computing device, *said first data indicating that said first copy is to be branded with information associated with the first entity;*
>
> receiving said first data from said first computing device; and

> providing first branding instructions to said first computing device *in response to receiving said first data, said first branding instructions comprising placing said first entity first in a list of electronic content-providing entities displayed on said first computing device.*
>
> (emphasis added).

Horstmann does not disclose at least the italicized features of amended claim 1. Horstmann discloses a mechanism whereby a referrer may be identified at the time of purchase in a download-then-pay system. A referrer identifier is added to software when the software is downloaded. When purchased, the referrer identifier is retrieved from the computer to which the content was downloaded. "Marking the software product with the identity of the referrer ensures that credit is given to the referrer when and if the software product is purchased." (See Horstmann column 3, lines 5-8). In addition to being referrer identification information rather than information indicating that the software "is to be branded with information associated with the first entity", no branding instructions "comprising placing said first entity first in a list of electronic content-providing entities displayed on said first computing device" is disclosed or suggested.

Similarly, Applicants' amended claim 15 recites analogous features. Hence, for the reasons cited above, Applicants respectfully request the withdrawal of the § 102 rejections of claims 1 and 15, and claims 5, 8, 14, 23 and 27 which depend therefrom.

Claim 28 has been rejected as being anticipated by Kikinis et al. Amended claim 28 recites:

> A method for distributing a variation of software through one of a plurality of entities, comprising:
>
> providing a standardized version of software from a first entity and *an indication that said standardized version of said software is to be branded;* and
>
> providing a customized version of said software as a function of one of a plurality of entities, *said customized version of said software being branded by placing said first entity first in a list of content-providing entities.*

(emphasis added). Kikinis describes a vending machine that dispenses software to a PDA in one of several modes. The version of software dispensed to the PDA may be based on a unique feature of the PDA, such as serial number or other code. As Kikinis does not disclose or suggest at least the italicized features of Applicants' claim 28, Applicants respectfully request the withdrawal of the 102 rejection of claim 28.

Claim Rejections – 35 U.S.C. 103

Claims 2-4 and 29-30 have been rejected as being unpatentable over Horstmann in view of Carolan. Applicants submit that claims 2-4 are allowable as depending from allowable claim 1 for the reasons described above. Carolan does not cure the deficiencies of Horstmann. Carolan describes a method to enable branding indicia of a selected ISP to be presented through a user interface associated with client software. Carolan does not disclose or suggest at least branding comprising "placing said first entity first in a list of content-providing entities" as recited by amended claim 1. As neither Horstmann nor Carolan alone or in combination disclose or suggest all the features of Applicants' claim 1, from which claims 2-4 depend, Applicants submit that claims 2-4 are allowable and request the withdrawal of the 103 rejection of claims 2-4.

Independent claim 29 recites features analogous to those recited in claim 1, hence Applicants submit that claim 29 is allowable as is claim 30 which depends therefrom and respectfully request the withdrawal of the 103 rejection of claims 29 and 30.

Claims 6-7 and 24-26 have been rejected as being unpatentable over Horstmann in view of Bates. Applicants submit that claims 6-7 are allowable as depending from allowable claim 1 and claims 24-26 are allowable as depending from allowable claim 15 for the reasons described above. Bates does not cure the deficiencies of Horstmann. Bates is directed to a web page exploration indicator that displays to a user the degree of exploration for a web page or for one or more links on a web page. Bates does not disclose or suggest at least "providing first branding instructions to said first computing device in response to receiving said first data, said first branding instructions comprising placing said first entity first in a list of electronic content-providing entities displayed on said first computing device" as recited by amended claim 1 and analogously in claim 15. As neither Horstmann nor Bates disclose or suggest all of the above discussed features of Applicants' claims 1 and 15, from which claims 6-7 and 24-26 depend, Applicants submit that claims 6-7 and 24-26 are allowable and request the withdrawal of the 103 rejection of these claims.

Claims 9-10 have been rejected as being unpatentable over Horstmann in view of Philyaw. Applicants submit that claims 9-10 are allowable as depending from allowable claim 1 for the reasons described above. Philyaw does not cure the deficiencies of Horstmann. Philyaw discloses a method for connecting a user PC on a user node on a

primary network to a remote node on the network but does not disclose at least "providing first branding instructions to said first computing device in response to receiving said first data, said first branding instructions comprising placing said first entity first in a list of electronic content-providing entities displayed on said first computing device" as recited by amended claim 1. As neither Horstmann nor Philyaw disclose or suggest all of the features of Applicants' claim 1, from which claims 9-10 depend, Applicants submit that claims 9-10 are allowable and request the withdrawal of the 103 rejection of these claims.

Claims 11-13 have been rejected as being unpatentable over Horstmann in view of Chanos. Applicants submit that claims 11-13 are allowable as depending from allowable claim 1 for the reasons described above. Chanos does not cure the deficiencies of Horstmann. Chanos discloses an advertisement that enables a consumer to find, request or send information related to an advertised product or service but does not disclose at least "providing first branding instructions to said first computing device in response to receiving said first data, said first branding instructions comprising placing said first entity first in a list of electronic content-providing entities displayed on said first computing device" as recited by amended claim 1. As neither Horstmann nor Chanos disclose or suggest all of the features of Applicants' claim 1, from which claims 11-13 depend, Applicants submit that claims 11-13 are allowable and request the withdrawal of the 103 rejection of these claims.

Claim 16 has been rejected as being unpatentable over Horstmann in view of Bukszar. Applicants submit that claims 16 is allowable as depending from allowable claim 15 for the reasons described above. Bukszar does not cure the deficiencies of Horstmann. Bukszar discloses a system for displaying and accessing information such as HTML web pages but does not disclose at least "providing branding instructions to said first computing device based on said received branding data, said branding instructions comprising placing said first entity first in a list of electronic content-providing entities displayed on said first computing device" as recited by Applicants' amended claim 15. As neither Horstmann nor Bykszar disclose or suggest all of the features of Applicants' claim 15, from which claim 16 depends, Applicants submit that claim 16 is allowable and request the withdrawal of the 103 rejection of this claim.

Claims 17-22 have been rejected as being unpatentable over Horstmann in view of Bukszar and further in view of Philyaw. Applicants submit that claims 17-22 are allowable as

depending from allowable claim 15 for the reasons described above. As described above, neither Bukszar nor Philyaw cure the deficiencies of Horstmann. As neither Horstmann nor Bykszar nor Philyaw, alone or in combination, disclose or suggest all of the above discussed features of Applicants' claim 15, from which claims 17-22 depend, Applicants submit that claims 17-22 are allowable and request the withdrawal of the 103 rejection of these claims.

In view of the above amendments and remarks, Applicants respectfully submit that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested.

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